OAL CHECKLIST REGULAR APA RULEMAKING

| OAL File NoS | Agency: |
|--------------|-----------|
| Reviewer: | Due Date: |

(All citations are to the Government Code, unless otherwise specified. CCR means California Code of Regulations.)

REQUIREMENT OK? PROBLEMS

| <u>REQUIREMENT</u> | (| <u>OK?</u> | |
|---|---|------------|---|
| 1. FORM 400 (1 CCR 6) | | | |
| Name of agency in <i>AGENCY WITH RULEMAKING AUTHORITY</i> box? (1 CCR 6(b)(10)) | Y | | N |
| Subject described in SUBJECT OF REGULATION(S) box? (1 CCR 6(b)(1)) | Y | | N |
| Rulemaking action submitted within 1 year of publication date of notice? (11346.4(b)) | Y | | N |
| If Department of Consumer Affairs:Has period been extended per B&P Code 313.1(e)? | Y | NA | N |
| All SECTIONS AFFECTED and TITLES listed? (1 CCR 6(b)(2)) | Y | | N |
| TYPE OF FILING correctly indicated? (1 CCR 6(b)(3)) | Y | | N |
| CERTIFICATE OF COMPLIANCE FILING ONLY:Box in B.3. on Form 400 marked, or appropriate equivalent certification in file? (11346.1(e)) | Y | | N |
| Submitted to OAL within 120 days of effective date of emergency regulations? (11346.1(e)) OR | Y | NA | N |
| Special statute for more or less time? | Y | NA | N |
| <i>Note: If not submitted within the required time period</i> , prepare Notice to adopting agency and Order of Reprinting or Deletion so that the regulation as it existed prior to the emergency adoption, repeal or amendment thereupon becomes effective. (11346.1(f)-(g)) | | | |
| RESUBMITTAL FILING ONLY: | | | |
| Previously Disapproved Regulations Only: Pursuant to 11349.4(b), limit review to: | | | |
| (1) reasons expressly identified in disapproval decision; | | | |
| or (2) issues arising from substantial change to | | | |
| provisions, or intervening statutory change or court | | | |
| orders/decisions. | | | |

| If substantive provisions are not significantly changed: Resubmitted within 120 days of agency's receipt of decision of disapproval? OR | Y | NA | N |
|---|---|----|---|
| • Extension granted by Director for good cause? (11349.4(a)) | Y | NA | N |
| If substantive provisions are significantly changed OR regulation is not resubmitted within 120 days: Has agency readopted regulation, complied with Article 5, §11346 et.seq. and resubmitted within one year of publication date of notice? (11349.4(a)) | Y | NA | N |
| Withdrawn Regulations Only:Resubmitted within 1 year of publication date of notice? (11346.4(b)) | Y | NA | N |
| Previously Disapproved and Withdrawn Regulations: Transmittal memo included (1 CCR 84) which: Identifies prior file by date of submission? (11349.4(c)) | Y | NA | N |
| Specifies parts of prior record incorporated in the resubmittal? (11349.4(c)); | Y | NA | N |
| ANDSubmitted copy of prior record, <i>if returned</i> ? (11349.4(c)) | Y | NA | N |
| ONLY FOR MODIFIED REGULATIONS AND/OR | | | |
| WHEN MATERIAL IS ADDED TO RULEMAKING | | | |
| FILE : Identifies beginning and ending dates of all public availability periods? (1 CCR 6(b)(4)) | Y | NA | N |
| EFFECTIVE DATE designated? (1 CCR 6(b)(5)) | Y | | N |
| Effective date specifically prescribed by underlying statute? (11343.4(a)) | Y | NA | N |
| If early effective date requested, written request of good cause shown? (11343.4(c)) | Y | NA | N |
| If later effective date prescribed by agency, is this in a written instrument filed with, or as part of, the regulation? (11343.4(b)) | Y | NA | N |
| ONLY WHEN NOTICE TO, REVIEW, | | | |
| CONSULTATION, APPROVAL, OR | | | |
| CONCURRENCE BY ANOTHER AGENCY IS REQUIRED BY STATUTE: (1 CCR 6 (b)(6)) | | | |
| If agency with rulemaking authority is required to meet | | | |
| this obligation, is designated agency indicated in B.6.?? | Y | NA | N |
| Name of agency <i>CONTACT PERSON</i> and <i>TELEPHONE NUMBER</i> ? (1 CCR 6(b)(7)) | Y | | N |
| | | | |

| 4. NOTICE OF PROPOSED RULEMAK | (IN(| | |
|--|------|----|-----|
| • Is closure date later than date of all documents in the rulemaking file? | Y | | N |
| Date file closed included? | Y | | N |
| States rulemaking file is closed and complete? | Y | | N |
| Affidavit/Declaration under penalty of perjury:Included in rulemaking file? (11347.3(b)(12)) | Y | | N |
| rulemaking file? (11347.3(b)(12)) | Y | | N |
| DECLARATION OF CLOSURE Table of Contents/Index identifies each item in | v | | N.T |
| 3. TABLE OF CONTENTS/AFFIDAVIT | OR | _ | |
| If "yes," has Building Standards Commission been contacted? (Health & Safety Code 18942.1) | Y | NA | N |
| Is the final text a Building Standard? Definition for Building Standard and exceptions are in Health & Safety Code 18909(a)-(j). | Y | NA | N |
| Final text shows changes to CCR in underline/italic and strikeout format for additions and deletions; if adoption of new final text, then clearly indicated that all is to be added to CCR? (1 CCR 8(b)) | Y | | N |
| Underlying text (and Authority and Reference cites) match what is printed in CCR? | Y | | N |
| Authority and Reference citations included with final text? (11346.2(a)(2); (1 CCR 8(a)(1)) | Y | | N |
| Regulation section number(s) fit into CCR? | Y | | N |
| If document(s) incorporated by reference: • Attached to original for filing with Secretary of State? Six duplicate copies of document incorporated by reference not required for formal publication reasonably available from commonly known or identified source. (1 CCR 20(d)) | Y | NA | N |
| Final regulation text attached to original and six copies of Form 400? (11343, 1 CCR 6(a)) | Y | | N |
| Typed name/title? (11343(f), 1 CCR 6(b)(8)(E)) 2. FINAL REGULATION TEXT | 1 | | |
| | Y | | N |
| in rulemaking file or on file with OAL. (1 CCR 6(b)(8))Dated? (1 CCR 6(b)(8)(D)) | Y | | N |
| SIGNATURE OF AGENCY HEAD OR DESIGNEE?If designee, must be listed in a signed delegation order | Y | | N |

| HEARING:If hearing scheduled: is time, place and nature of proceeding included? (11346.5(a)(1)) (If "yes," skip to "Written Comment Period." Also, see # 7: Transcripts, Recording, or Minutes.) | Y | NA | N |
|--|---|----|---|
| <i>If no hearing scheduled</i> : is information on opportunity to request one included? (11346.5(a)(17)) | Y | NA | N |
| Was a hearing requested? If "no," skip to "Written Comment Period." | Y | NA | N |
| If "yes," is request included in file? (11346.8(a); 11347.3(b)(6)) | Y | NA | N |
| If hearing timely requested, notice mailed to the extent practicable? (11346.8(a)) | Y | NA | N |
| WRITTEN COMMENT PERIOD:Date written comment period closes included? | Y | | N |
| At least 45 days (or other time period specified by statute) between publication date and hearing/close of written comment period? (11346.4(a); 11346.5(a)(15)) | Y | | N |
| AUTHORITY and REFERENCE:Citations included? (11346.5(a)(2); 1 CCR 14) | Y | | N |
| INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW:Format similar to Legislative Counsel's digest? (11346.5(a)(3)) | Y | | N |
| In plain English? (11346.5(a)(3)) | Y | | N |
| Directly related existing laws and regulations, <i>if any</i> , and effect of proposed regulations concisely and clearly summarized? (11346.5(a)(3)(A)) | Y | NA | N |
| Broad, and, if appropriate, specific objectives explained? (11346.5(a)(3)(C)) | Y | | N |
| If substantial difference from existing, comparable federal regulation or statute, significant differences are briefly described? (11346.5(a)(3)(B)) | Y | NA | N |
| • Full citation to federal regulation or statute included? (11346.5(a)(3)(B)) | Y | NA | N |
| If document incorporated by reference into regulation, it is listed by title and date? (1 CCR 20(c)(3)) | Y | NA | N |
| MANDATED BY FEDERAL LAW OR REGULATIONS: If adopting or amending regulations | | | |

| on this basis that are identical to previously adopted or amended federal regulation, a statement is included to that effect, together with a citation to where an explanation of the provisions of the regulation can be found? (11346.2(c)) | Y | NA | N |
|---|----|------|-----|
| If "yes," this is sufficient to satisfy the FSR requirements of 11346.9. (Review of # 11: FSR is not necessary.) | | | |
| OTHER STATUTORY REQUIREMENTS: | | | |
| Are there any requirements identified in the notice that are specific to the agency or type of regulation? | Y | NA | N |
| (11346.5(a)(4)) | | | |
| LOCAL MANDATE: | | | |
| Is determination (policy or expenditure) included as to whether mandate is imposed on local agency or school | | | |
| district that requires reimbursement pursuant to Section 17500 et.seq.?? (11346.5(a)(5)) | Y | | N |
| <i>If mandate is imposed</i> , is reimbursement required pursuant to Section 17500 et.seq.? (11346.5(a)(5)) | Y | NA | N |
| If regulation results in reimbursable cost to local agency/school district, OAL must disapprove unless information specified in 11349.1(d)(3) on source of funds is included in rulemaking file. See Part 10: Form 399 (Fiscal Impact) to review supporting information for making this decision. | | | |
| FISCAL IMPACT: (11346.5(a)(6)) | | | |
| Estimates prepared in accordance with DOF included:Cost to any local agency or school district? | Y | | N |
| • Costs or savings to any state agency? | Y | | N |
| • Other non-discretionary cost or savings imposed upon local agencies? | Y | | N |
| • Costs or savings in federal funding to the state? | Y | | N |
| HOUSING COSTS : (11346.5(a)(12)) | | | |
| If agency makes initial determination of significant | | | |
| effect on housing costs, statement of that effect included? | Y | NA | N |
| SIGNIFICANT STATEWIDE ADVERSE | | | |
| ECONOMIC IMPACT DIRECTLY AFFECTING | | | |
| BUSINESS, INCLUDING ABILITY TO COMPETE: | | | |
| (11346.3(a); 11346.5(a)(7)) | | | |
| If agency makes initial determination that proposal may | | | |
| have such an impact, does notice: | 17 | NT A | N.T |
| • State "initial" determination? | Y | NA | N |
| • Identify types of businesses affected? | Y | NA | N |

| Describe projected compliance requirements? | Y | NA | N |
|--|---|----|---|
| • Solicit proposed alternatives using boilerplate at 11346.5(a)(7)(C)? | Y | NA | N |
| If proposal will not have such an impact, does notice state "initial" determination?(11346.5(a)(8)) (Check ISR for evidence relied upon to support determination.) | Y | NA | N |
| BUSINESS REPORT: <i>If regulation requires a report</i> , is there a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to business? (11346.5(a)(11); 11346.3(c)) | Y | NA | N |
| ASSESSMENT REGARDING EFFECT ON | | | |
| JOBS/BUSINESSES: Statement of results of assessment regarding creation/elimination of CA jobs and creation of new, or elimination/expansion of existing CA businesses included? 11346.5(a)(10)) | Y | | N |
| COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS: Statement of all known cost impacts a representative private person or business would incur in reasonable compliance included? (11346.5(a)(9)) | Y | | N |
| If no known cost impacts, is boilerplate "not aware of any cost impacts" statement included? (11346.5(a)(9)) | Y | NA | N |
| SMALL BUSINESS: Statement that proposed action does/does not affect small businesses? (1 CCR 4(a)) | Y | | N |
| Brief explanation of reason for "does not affect" determination is included? (1 CCR 4(b)) | Y | NA | N |
| ALTERNATIVES STATEMENT: Statement that a least burdensome reasonable alternative determination must be made? (11346.5(a)(13)) | Y | | N |
| CONTACT PERSON: Name and telephone number of agency representative and designated backup contact person? (11346.5(a)(14)) | Y | | N |
| AVAILABILITY STATEMENTS regarding:Availability of express terms? (11346.5(a)(16)) | Y | | N |
| Statement that an initial statement of reasons is prepared and available? (11346.5(a)(16)) | Y | | N |
| Statement re availability of information upon which proposal is based (rulemaking file)? (11346.5(a)(16); 11346.5(b); 11346.2(a)) | Y | | N |
| 15-DAY CHANGES STATEMENT: Statement about 15-day availability of substantial changes to the original proposal? (11346.5(a)(18)) | Y | | N |
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| | NA NA NA |

| Regulations (CFR) included? | | | |
|--|--------|------|--------|
| • Required finding to adopt regulation different from CFR included? (11346.2(b)(5)) | Y | NA | N |
| 7. TRANSCRIPT, RECORDING, OR M | INU | JTES | |
| (This part is necessary only if public hearing is held or if a board meeting is required to adopt the regulation.) Included in rulemaking file? (11347.3(b)(8)) • If transcript or recording, is it verbatim? (1 CCR 90(b)) | Y Y | NA | N N |
| • <i>If minutes</i> , are they sufficiently detailed to indicate objections and recommendations made? (1 CCR 90(c)) | Y | NA | N |
| Demonstrates that board or commission with rulemaking authority adopted the regulation(s) after complying with public availability requirements of 11346.8? (11346.8, 11347.3(b)(8); 1 CCR 90(a)) | Y | NA | N |
| Does final text (including any substantial changes) match text expressly adopted by board or commission? (11346.8(a) and (c)) | Y | NA | N |
| If scheduled public hearing continued or postponed, adequate notice of resumption? (11346.8(b)) | Y | NA | N |
| 8. POST-NOTICE MODIFICATIONS | | | |
| REGULATION TEXT Originally proposed and noticed text included in rulemaking file? (11347.3(b)(10) | Y | | N |
| Differences between originally noticed text and text submitted to OAL? (11346.8(c)) If "no," skip to # 9: Updated Informative Digest. | Y | | N |
| If "yes," are all changes nonsubstantial (1 CCR 40) or solely grammatical? (11346.8(c))If "yes," skip to #9: Updated Informative Digest. | Y | NA | N |
| If "no," is modified text of regulation included in rulemaking file? (11347.3(a)(10)) | Y | NA | N |
| Modified text shows full text of regulation as originally proposed with proposed changes clearly indicated? (1 CCR 44; 1 CCR 46) | Y | NA | N |
| All substantial changes (1 CCR 40) sufficiently related to original proposal? (11346.8(c); 1 CCR 42) If "yes," notice and 15-day comment period required on changes that are sufficiently related. (11346.8(c)) If "no," notice and new 45-day comment period required on changes that are not sufficiently related. (11346.4; 11346.8(c)) | Y | NA | N |

| | 1 | | |
|--|-------|----|---|
| NOTICE OF 15-DAY COMMENT PERIOD(S)Included in rulemaking file? | Y | NA | N |
| States period within which comments will be received? (1 CCR 44(a)) | Y | NA | N |
| If newly incorporated document, is it identified by title and date of publication or issuance? (1 CCR 20(c)(3)) | Y | NA | N |
| Included in rulemaking file? (1 CCR 44(b) and 11347.3(b)(9)) | Y | NA | N |
| Confirm that agency complied with 1 CCR 44: States date that notice and modified text were mailed? (1 CCR 44(b)) | Y | NA | N |
| • States that notice <i>and</i> text were mailed to those listed in 1 CCR 44(a)? | Y | NA | N |
| • States the beginning and ending date of public availability? (1 CCR 44(b)) | Y | NA | N |
| If no persons to mail to, statement to confirm this is included? (1 CCR 44(c)) | Y | NA | N |
| AVAILABILITY OF NOTICE AND TEXTNotice and text made available to public for at least 15 days at location where rulemaking record is maintained? (1 CCR 44 (d)) | Y | NA | N |
| Confirming statement contains beginning and ending dates for the availability period? (1 CCR 44 (d)) | Y | NA | N |
| Was all material relied upon made available for comment (either identified in the ISR or otherwise made available)? | Y | NA | N |
| If "yes," skip to # 9: Updated Informative Digest. If "no," was material made available for at least 15 days as required by 11347.1? | Y | NA | N |
| If "yes," is notice included in rulemaking file? | Y | NA | N |
| • Does Notice identify added document(s) and location available? (11347.1(b) | Y | NA | N |
| • Includes statement confirming compliance with notice requirements including date mailed? (11347.1(e)) | Y | NA | N |
| • If no persons to mail to, statement to confirm this is included? (11347.1(f)) | Y | NA | N |
| 9. UPDATED INFORMATIVE DIGEST | ' | | |
| Included in rulemaking file? (11346.9(b)) | Y | | N |
| Update of summary of laws and regulations, if any, | | | |

| directly related to proposed rulemaking action? | Y | NA | N |
|---|------|------|---|
| Update of summary of effect of proposed rulemaking action? (11346.9(b)) | Y | | N |
| Format similar to Legislative Counsel Digest? (11346.9(b)) | Y | | N |
| 10. FORM 399 (FISCAL IMPACT) | _ | | |
| Fiscal Impact Statement on STD Form 399 included? | Y | | N |
| Properly filled out and signed by Agency Secretary or if rulemaking agency is not under an Agency Secretary by the highest ranking official in agency? (SAM 6680) | Y | | N |
| DOF concurrence required? (SAM 6660) | Y | | N |
| Computations leading to dollar estimate, if any, and supporting data included in rulemaking file? (11349.1(d)(1); 11346.5(a)(6); SAM 6622) | Y | NA | N |
| 11. FINAL STATEMENT OF REASONS | S (F | (SR) | |
| Included in rulemaking file? | Y | | N |
| Update of information in ISR? (11346.9(a)(1)) | Y | | N |
| Update of material relied upon by agency, if any? | Y | NA | N |
| Includes determination whether regulations impose mandate upon local agencies/school districts? (11346.9(a)(2)) | Y | | N |
| • <i>If mandate is imposed</i> , statement whether it is reimbursable under 17500-17630 is included? | Y | NA | N |
| If "not reimbursable," reason why included? | Y | NA | N |
| Includes determination, with supporting evidence, that no alternative would be more effective or as effective and less burdensome to affected persons? (11346.9(a)(4)) | Y | | N |
| INCORPORATION BY REFERENCEDemonstration that document was available upon request from agency, or reasonably available from commonly known or specified source? (1 CCR 20(c)(2)) | Y | NA | N |
| If "no," does regulation specify how a copy may be obtained? (1 CCR 20(c)(2)) | Y | NA | N |
| Demonstration that publication of incorporated document in full in CCR would be cumbersome, unduly expensive, or otherwise impractical? (1 CCR 20(c)(1)) | Y | NA | N |

| SUMMARY of each comment received during a comment period specifically directed at proposed regulation changes then available for comment or at procedure followed? (11346.9(a)(3)) | Y | NA | N |
|--|-----|-------|----|
| RESPONSE included explaining how proposal was amended to accommodate comment OR explaining <i>a reason for rejecting comment</i> ? (11346.9(a)(3)) | Y | NA | N |
| Reasons included for rejecting proposed alternatives to lessen impact on small business, <i>if any</i> ? (11346.9(a)(5)) | Y | NA | N |
| 12. OTHER MATERIAL IN RULEMAK | KIN | G FII | LE |
| Petition, <i>if any</i> , proposing regulatory change? (11340.7; 11347.3(b)(1)) | Y | NA | N |
| Public comments and other information: • Received during 45 day comment period? | Y | NA | N |
| • Received during 15 day comment period(s)? | Y | NA | N |
| • Received in connection with proposed rulemaking at other times? (11347.3(b)(6)) | Y | NA | N |
| All material relied upon by the agency included in the rulemaking file? (11347.3(b)(7)) | Y | NA | N |
| Any other information, statement, report or data which agency is required to consider or prepare included in file? (11347.3(b)(11)) | Y | NA | N |
| If agency is a board, commission or committee within the Department of Consumer Affairs, has agency included a certification that it has complied with B&P Code 313.1 and either DCA director has approved the regulation or the agency board/commission/committee has overridden director's disapproval by unanimous vote? (B&P Code 313.1(e)(3)) | Y | NA | N |
| 13. SUBSTANTIVE REQUIREMENTS | | | |
| AUTHORITY (11349(b); 11342.1; 11342.2; 1 CCR 14)Citations are specific, accurate, complete? | Y | | N |
| Does a statute provide specific authority to impose fine or imprisonment, or both? (2 CCR 11145) | Y | NA | N |
| If intended to promote fire and panic safety or provide fire protection and prevention, including fire suppression systems, equipment or alarms, has it been approved by State Fire Marshal? (11359(a)) | Y | NA | N |
| • If "no," is regulation expressly required to be at least | | | |

| as effective as federal standards pursuant to | Y | NA | N |
|---|---|--------|----|
| 11359(b)? | | - 12 - | -, |
| The regulation does not alter, amend, or enlarge a | Y | | N |
| statute? (1 CCR 14(c)) | | | |
| REFERENCE (11349(e); 1 CCR 14(b))Citations are specific, accurate, and complete? | Y | | N |
| CONSISTENCY (11342.2, 11349(d)) | | | |
| Statutes enforced or administered by agency? | Y | | N |
| Public Records Act? (6250-6270) | Y | NA | N |
| Information Practices Act? (Civil Code 1798) | Y | NA | N |
| Other applicable statutes or regulations? | Y | NA | N |
| CLARITY (11349(c); 1 CCR 16)Is the regulation clear pursuant to 1 CCR 16(a)? | Y | | N |
| If document incorporated by reference, Title of document (including a form) clearly set out in the text? (1 CCR 20(c)(4)) | Y | NA | N |
| • Statement in text that specifically identifies which portions of document are incorporated? (1 CCR 20(c)(5)) | Y | NA | N |
| • Statement in text of revision date (or other specific identifier) of the particular version incorporated? <i>EXCEPTION:</i> No date required if authorizing statute requires adoption/enforcement of incorporated provision and any subsequent amendments. (1 CCR 20(c)(4)) | Y | NA | N |
| NONDUPLICATION | | | |
| (11349(f), 11346.2(b)(5); 1 CCR 12)The regulation does not repeat or rephrase in whole or in part a state or federal statute or regulation? | Y | | N |
| If "no," one of the following exceptions must apply: EXCEPTIONS: 1 CCR 12 (b) | | | |
| (1) Necessary to satisfy clarity standardJustification as specified in 1 CCR 12 (b)(1) included? | Y | NA | N |
| (2) Federally mandated regulation (1 CCR 12 (b)(2)) | Y | NA | N |
| Agency meets requirements of 11346.9(c)? | Y | NA | N |
| (3) Mandated or authorized by provision of law | | | |
| Includes statement identifying duplicated or overlapped statute or regulation and provision of law (in citation style with information necessary to locate full | Y | NA | N |

| text) which permits or mandates duplication or overlap? (1 CCR 12 (b)(3)(A) and (B)) | | | |
|---|---|----|---|
| NECESSITY (11349(a); 1 CCR 10)Does record demonstrate by substantial evidence that each provision is reasonably necessary to effectuate the purpose of the provision of law it implements, interprets, or makes specific? | Y | | N |
| Scientific portions of regulation peer reviewed? (H&S Code 57004) | Y | NA | N |